

By: Zaffirini

S.B. No. 1786

A BILL TO BE ENTITLED

AN ACT

relating to the form of certain advance directives.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 166.032(c), Health and Safety Code, is amended to read as follows:

(c) A declarant may include in a directive directions other than those provided in the form designated under Section 166.0325 or prescribed by Section 166.033 and may designate in a directive a person to make a health care or treatment decision for the declarant in the event the declarant becomes incompetent or otherwise mentally or physically incapable of communication.

SECTION 2. Subchapter B, Chapter 166, Health and Safety Code, is amended by adding Section 166.0325 to read as follows:

Sec. 166.0325. PERMISSIBLE FORMS OF ADVANCE DIRECTIVE; DESIGNATED ADVANCE DIRECTIVE. (a) A written directive may be in a form:

(1) designated by the executive commissioner under Subsection (b); or

(2) prescribed by Section 166.033.

(b) The executive commissioner by rule shall designate a document to be recognized in this state as a written and validly executed advance directive. The document must:

(1) be promulgated by a national nonprofit organization;

- 1 (2) be written in plain language;
2 (3) allow a declarant to provide a health care
3 instruction;
4 (4) require a declarant to name an agent who is at
5 least 18 years of age to make health care decisions for the
6 declarant when the declarant lacks the capacity to make the
7 decisions;
8 (5) allow a declarant to name an alternate agent who is
9 at least 18 years of age to make health care decisions for the
10 declarant if the agent is unable or unwilling to make the decisions;
11 (6) allow the declarant to specify or limit the health
12 care decisions an agent may make for the declarant;
13 (7) allow the declarant to specify the health care
14 treatments the declarant approves or does not approve;
15 (8) allow the declarant to specify the personal,
16 spiritual, and emotional care the declarant approves or does not
17 approve;
18 (9) allow the declarant to detail information the
19 declarant wants conveyed to family members and friends, including
20 the declarant's wishes for a memorial service or burial;
21 (10) require the declarant to sign and date the
22 advance directive in the presence of two witnesses who qualify
23 under Section 166.003, at least one of whom qualifies under Section
24 166.003(2); and
25 (11) be accepted as a validly executed advance
26 directive in at least 40 other states of the United States.
27 (c) The commission shall post on the commission's Internet

1 website a link to the document designated under Subsection (b).

2 SECTION 3. Section 166.036(a), Health and Safety Code, is
3 amended to read as follows:

4 (a) Except as provided by Section 166.032(b-1), a written
5 directive executed under Section 166.0325, 166.033, or 166.035 is
6 effective without regard to whether the document has been
7 notarized.

8 SECTION 4. Section 166.102(b), Health and Safety Code, is
9 amended to read as follows:

10 (b) When responding to a call for assistance, emergency
11 medical services personnel:

12 (1) shall honor only a properly executed or issued
13 out-of-hospital DNR order or prescribed DNR identification device
14 in accordance with this subchapter; and

15 (2) have no duty to review, examine, interpret, or
16 honor a person's other written directive, including a written
17 directive in the form designated under Section 166.0325 or
18 prescribed by Section 166.033.

19 SECTION 5. Subchapter D, Chapter 166, Health and Safety
20 Code, is amended by adding Section 166.163 to read as follows:

21 Sec. 166.163. PERMISSIBLE FORMS OF MEDICAL POWER OF
22 ATTORNEY. Notwithstanding Section 166.164, a medical power of
23 attorney may be:

24 (1) in a form prescribed by Section 166.164; or

25 (2) a document designated by the executive
26 commissioner under Section 166.0325, provided the document
27 designates an agent and is executed in the manner required by

1 Section 166.154.

2 SECTION 6. Not later than December 1, 2019, the executive
3 commissioner of the Health and Human Services Commission shall by
4 rule designate a document as required by Section 166.0325, Health
5 and Safety Code, as added by this Act.

6 SECTION 7. This Act takes effect September 1, 2019.